

# FISH & RICHARDSON P.C.

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

April 21, 2006

The Honorable Gregory M. Sleet  
United States District Court  
for the District of Delaware  
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Re: *National Starch and Chemical, et al. v. Cargill, Inc., et al.*  
USDC-D. Del. - C.A. No. 04-1443-GMS

Dear Judge Sleet:

Defendants respectfully apologize for any confusion caused by counsel's less than clear reference regarding interpretation of the patents-in-suit made in our prior letter to the Court. Defendants April 17th letter in no way meant to denigrate the Court's claim construction decision, especially in light of the careful consideration exerted by Your Honor regarding these matters.

Defendants' April 17th letter intended to explain that Plaintiffs' position on willfulness appeared to rely upon assertions: (i) that Cargill could not have reasonably relied on many years of testing its own products for amylose content utilizing a standard iodine colorimetric test; and (ii) that Cargill should have realized that the test set forth in the specification of the patents-in-suit would later be applied and (when modified to make it operable) would substantially inflate the apparent amylose content results compared to the results Cargill routinely had obtained from testing its own products over many years. Thus, Defendants sought to explain that Plaintiffs' position relied upon an improper foundation for charging Cargill with willful misconduct.

Counsel for Defendants sincerely regret our failure to more clearly state Defendants' position.

Respectfully,



Thomas L. Halkowski

TLH:kxk/80032430  
Enclosure

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